

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRYAN MICHAEL POLLESTAD,

Defendant.

Case No. CR20-088-RSL

ORDER GRANTING
UNOPPOSED MOTION TO
CONTINUE TRIAL

This matter comes before the Court on defendant's "Motion to Continue Trial" (Dkt. # 49). Having considered the facts set forth in the motion, the government's response memorandum (Dkt. # 50), and defendant's knowing and voluntary waiver (Dkt. # 52), the Court finds as follows:

1. Defendant requests a continuance on the grounds that (a) defense counsel requires additional time to review the government's September 12, 2022 discovery production; and (b) defense counsel and defendant are in the process of reviewing a new plea offer in this case in the interest of reaching a global resolution of this case and defendant's other cases. See Dkt. # 49.

2. The government does not oppose defendant's motion to continue trial. See Dkt. # 50. The government, however, notes that (a) it is prepared to go to trial on the current trial date of October 17, 2022; (b) defendant has been in federal custody under this cause number since May 1, 2020 and, since September 3, 2020, on separate and unrelated charges under CR20-137-JCC; (c) the government only anticipates calling three witnesses and offering

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1 approximately one dozen exhibits, and anticipates that presentation of its case will take one day;
2 (d) the government provided additional discovery to the defense on September 12, 2022 in the
3 form of FBI reports, which largely contained the underlying state reports relating to this offense
4 and did not include any new information that the government intends to rely on at trial; and
5 (e) there have been four prior continuances of the trial date. See id.; see also Dkts. # 24, # 37,
6 # 43, # 46 (prior continuances).

7 3. In light of the foregoing, the Court finds that a failure to grant a continuance
8 would deny counsel, and any potential future counsel, the reasonable time necessary for
9 effective preparation, taking into account the exercise of due diligence, within the meaning of 18
10 U.S.C. § 3161(h)(7)(B)(iv).

11 4. The Court finds that a failure to grant a continuance would likely result in a
12 miscarriage of justice, as set forth in 18 U.S.C. § 3161(h)(7)(B)(i).

13 5. The Court finds that the additional time requested between October 17, 2022, and
14 the proposed trial date of December 5, 2022, is a reasonable period of delay. The Court finds
15 that this additional time is necessary to provide defense counsel reasonable time to prepare for
16 trial, as defendant has requested more time to prepare for trial, to continue to investigate the
17 matter, to gather evidence material to the defense, and to consider possible defenses. The
18 additional time requested between the current trial date and the new trial date is necessary to
19 provide counsel for the defendant the reasonable time necessary to prepare for trial, considering
20 all of the facts set forth above.

21 6. The Court further finds that this continuance would serve the ends of justice, and
22 that these factors outweigh the best interests of the public and defendant in a speedier trial,
23 within the meaning of 18 U.S.C. § 3161(h)(7)(A).

24 7. Defendant has signed a waiver indicating that he has been advised of his right to a
25 speedy trial and that, after consulting with counsel, he has knowingly and voluntarily waived
26 that right and consented to the continuation of his trial to a date up to and including January 1,
27 2023, Dkt. # 52, which will permit his trial to start on December 5, 2022.

1 IT IS HEREBY ORDERED that the trial date shall be continued from October 17,
2 2022 to December 5, 2022, and pretrial motions are to be filed no later than November 4,
3 2022;

4 IT IS FURTHER ORDERED that the period of time from the current trial date of
5 October 17, 2022, up to and including the new trial date, shall be excludable time pursuant to the
6 Speedy Trial Act, 18 U.S.C. § 3161, *et seq.* The period of delay attributable to this filing and
7 granting of this motion is excluded for speedy trial purposes pursuant to 18 U.S.C.
8 §§ 3161(h)(1)(D), (h)(7)(A), and (h)(7)(B).

9 DATED this 28th day of September, 2022.

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11 Robert S. Lasnik
12 United States District Judge
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